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Olivan, Samuel Lessin, Michael Vernal, and Ilya Sukhar

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

SIX4THREE, LLC, a Delaware limited liability
company,

Plaintiff,

v.

FACEBOOK, INC., a Delaware corporation;
MARK ZUCKERBERG, an individual;
CHRISTOPHER COX, an individual;
JAVIER OLIVAN, an individual;
SAMUEL LESSIN, an individual;
MICHAEL VERNAL, an individual;
ILYA SUKHAR, an individual; and
DOES 1-50, inclusive,

Defendants.

Case No. CIV 533328

**Assigned for all purposes to Hon. V. Raymond
Swope, Dept. 23**

**JOINT SUBMISSION REGARDING
FORENSIC EXAMINER**

Dept: 23 (Complex Civil Litigation)
Judge: Honorable V. Raymond Swope

FILING DATE: April 10, 2015
TRIAL DATE: April 25, 2019

Pursuant to the Court’s March 15, 2019 Order, Plaintiff Six4Three LLC (“Six4Three”) and Defendant Facebook, Inc. (“Facebook”) submit the following recommendations regarding the appointment of a neutral forensic examiner.¹

I. FACEBOOK

Facebook’s Proposed Forensic Examiners

Facebook proposes the following forensic examiners and attaches descriptions of their work as Exhibits A & B:

- J. Christopher Racich, Vestigant, LLC
- Kenneth Koch, KPMG US LLP

The forensic examination of Mr. Kramer and Mr. Scaramellino’s physical devices and cloud accounts requires specialized expertise in and equipment for forensic electronic data analysis. This involves not only the traditional e-discovery function of searching the content of files (e.g., PDFs and Word documents) contained in the collected data, but also an examination of metadata, system logs, settings and configuration files, and data artifacts to determine when and how files were accessed and modified. In short, the examiner needs to have the experience and expertise to investigate, forensically, what happened to the confidential information at issue. The level of necessary expertise is shared by only a handful of forensic examination firms worldwide.²

Christopher Racich, the President of Vestigant, LLC, has significant experience in managing forensic investigations and has testified as a computer forensic expert in dozens of matters. *See* Exhibit A. Kenneth Koch is a Principal at KPMG US LLP, who specializes in misconduct investigations, e-

¹ Facebook preserves its objection to the Court’s decision to require Facebook to bear the entire cost of the neutral forensic examiner. Facebook was not given an opportunity to be heard on this point before the Court issued its March 15 order, nor has Facebook been allowed to test the assertions of Six4Three, Mr. Kramer and Mr. Scaramellino that they are incapable of paying their share of the forensic examination costs. Facebook respectfully requests an opportunity to be heard on, or to make a motion to seek recoupment of, fees and expenses associated with the proceeding at the appropriate time—whether now or in the context of potential contempt or sanctions proceedings. This was a situation entirely of Six4Three’s—including Mr. Kramer’s and Mr. Scaramellino’s—making and they, not Facebook, should bear the cost of the investigation into their wrongdoing.

² In addition to the two firms above, Facebook reached out to three other forensic examiners with the expertise necessary for this forensic examination, not including Stroz Friedberg. All three declined based on a potential conflict with Facebook.

1 discovery, computer forensics, and data analytics to support litigation and assist clients during
2 government investigations. *See* Exhibit B.

3 Facebook and Six4Three asked each of the proposed forensic examiners to run conflict checks for
4 each of Facebook, Six4Three, counsel for the parties, counsel for Birnbaum & Godkin, counsel for Gross
5 & Klein, individual counsel for Mr. Kramer and Mr. Scaramellino, and the six individual
6 defendants. Mr. Racich reported that he is free of conflicts. Mr. Koch has confirmed that he does not
7 have a conflict with Facebook (although, as discussed below, KPMG—one of the “Big 4” accounting
8 firms—has done work with Facebook) and expects that the other entities and individuals will be cleared
9 through his conflict check by the end of the week.

10 While both of them have insisted that they cannot participate in this litigation, Mr. Godkin and
11 Mr. Gross insisted that each proposed forensic examiner check for conflicts with any entities for which
12 the six individual defendants have “decision-making authority,” whatever that means. Facebook did not
13 object to running the names of the six individuals, even though they have no role or involvement in the
14 current dispute regarding the improper disclosure of Facebook’s confidential information, and thus no
15 potential for a conflict. But Six4Three’s request that each of the six individual defendants further
16 disclose all entities for which they have “decision-making authority” is completely unnecessary and
17 burdensome.³ This proceeding requires an examination of Mr. Kramer and Mr. Scaramellino’s data
18 related to the disclosure of **Facebook’s** confidential information, and the proposed forensic examiners are
19 free of any conflict with respect to any of the parties including the individual defendants—that is more
20 than enough.

21 Critically, Six4Three has not and cannot identify any plausible reason why unrelated entities with
22 whom Facebook’s former employees work or are affiliated would have any bearing on a conflict
23 here. Facebook asked Six4Three to identify specific concerns with any specific entities, but they did not
24

25 ³ Identifying the entities for which the individual defendants have “decision-making authority” is not a
26 simple task, as most of the individual defendants are associated with various start-ups both at the
27 operation and investment level. At least one of the individual defendants works as a venture capitalist
28 specializing in providing start-ups with seed or early investments. Compiling a list of all associated
entities with the individual defendants and then vetting that list for “decision-making authority” would be
a time-consuming process and a waste of resources given that the individual defendants have no role in
this process.

1 identify any. The best that Six4Three's lawyers have come up with is the hypothetical suggestion that a
2 forensic examiner might be biased by work they do for some other company if that company has some
3 relationship with the individual defendants. But for such bias to exist, the forensic examiner would have
4 to know about the relationship, and thus would have disclosed it. Instead, Six4Three's objection is based
5 on a completely hypothetical theory of a hypothetical conflict between the individual defendants'
6 hypothetical current activities with third parties that have a hypothetical relationship with the forensic
7 examiner and the hypothetical bias that would create for a forensic examination even if the forensic
8 examiner himself is not aware of the conflict. In short, these objections appear to be little more than the
9 latest attempt to derail these proceedings by throwing up roadblocks to prevent the Court from appointing
10 a qualified forensic examiner that can actually get to the bottom of what Mr. Kramer and the legal team
11 did with Facebook's confidential information.

12 Facebook's second recommendation for a firm capable of performing the forensic examination at
13 issue, KPMG, is one of the "Big Four" accounting firms in the United States. Unsurprisingly given its
14 size, Facebook has worked with all of these companies in some capacity. KPMG provides advisory
15 services to Facebook regarding cyber security and has loaned staff to Facebook's legal department for e-
16 discovery. This work did not include any advice in any substantive matters and is unrelated to the
17 forensic examination here, and so does not create a conflict. Six4Three apparently disagrees, but is
18 inconsistent in their position on what constitutes a conflict. Guidepost Solutions, one of Six4Three's two
19 recommendations, has done physical security work for Facebook in the past two years, assisting
20 Facebook in building a global employee notification system and developing some security design
21 standards. Guidepost Solutions also does work for Wilson Elser, Mr. Gross's counsel. Six4Three should
22 not be permitted to object to work that KPMG has done for Facebook while ignoring Facebook and
23 Wilson Elser's relationship with Guidepost Solutions.

24 ***Facebook's Objection to Six4Three's Proposed "Forensic Examiners"***

25 Facebook objects to the forensic examiners proposed by Six4Three because they do not appear to
26 be forensic examiners at all. Nor do they appear to have the technical forensic examination capabilities
27 required to adequately analyze the data collected from Mr. Kramer and Mr. Scaramellino's physical
28 electronic devices and cloud accounts. Epiq Systems is a traditional e-discovery vendor that has the

1 capability to search and process documents, but not the level of expertise or specialized equipment and
2 software necessary for the deeper investigation, including an examination of metadata, system logs,
3 settings and configuration files, and data artifacts to determine when and how files were accessed and
4 modified. Further, Mr. Kula appears to be a sales representative and to not have any relevant technical
5 expertise. Similarly, Ms. Douglas of Guidepost Solutions does not list forensic examination of digital
6 data as her area of expertise on the Guidepost Solutions website, and instead claims to focus on
7 “sensitive internal investigations, white collar crime investigations, building corporate compliance
8 programs, holistic corporate security programs, and proactively educating executives about crisis
9 management and insider threats.”

10 * * *

11 In short, both of Facebook’s proposed forensic examiners, Mr. Racich and Mr. Koch, have the
12 technical capabilities to perform a comprehensive forensic examination of the data recovered from Mr.
13 Kramer and Mr. Scaramellino’s physical devices and cloud accounts, as is clear from Exhibits A and B.
14 Mr. Racich has reported that he is clear of conflicts with respect to Facebook and the individual
15 defendants. Mr. Koch has confirmed that he does not have a conflict with Facebook and is in the process
16 of confirming the same as to the individual defendants. Six4Three has not raised any credible objection,
17 or offered any qualified alternative. Facebook requests that the Court appoint one of Mr. Racich or Mr.
18 Koch as the neutral forensic examiner so that the forensic examination process can proceed promptly.

19 **II. SIX4THREE**

20 As an initial matter, Six4Three objects to Facebook’s transformation of this process into one of
21 advocacy and disputation. This should not be this difficult.⁴

22
23
24 ⁴ There is no basis for Facebook’s suggestion that there is something amiss with the undersigned counsel
25 for Six4Three taking the position that they cannot participate in the litigation because of the unwaivable
26 conflict between them and Six4Three, on the one hand, and their effort—while they remain Six4Three’s
27 counsel—to protect Six4Three’s interests by ensuring an unbiased forensic examiner is appointed, on the
28 other hand. Indeed, the implicit suggestion that the undersigned counsel should do nothing to protect
Six4Three’s interests indicates a reason why Facebook has fought so hard to prevent the undersigned
counsel for Six4Three’s withdraw: Facebook believes that having their adversary represented by counsel
who have unwaivable conflicts, places their adversary in a weakened position.

1 Regarding Christopher Racich, the President of Vestigant, LLC, as the undersigned counsel for
2 Six4Three stated to Facebook's counsel in the meet and confer, Six4Three has no objection.

3 Regarding KPMG, Six4Three objects on the basis of KPMG's work with Facebook, particularly
4 seconding personnel to Facebook's legal department, the same legal department that is overseeing this
5 litigation. To be clear, Six4Three does not challenge Mr. Koch's integrity. However, the connections
6 between KPMG and Facebook are too close and thus create at least an appearance of bias, which could
7 lead ultimately to disputation and delay. It is in nobody's interest to create that possibility.⁵

8 Regarding Stephanie Douglas, Guidepost Solutions, a description of whose work is attached
9 hereto as Exhibit C, Ms. Douglas is more than qualified to do the work called for. As an initial matter,
10 the only work actually called for is running keywords against electronic documents contained in the
11 images already gathered and producing the results of those keyword searches in a manner that preserves
12 metadata: any competent ESI vendor can do that. Moreover, Ms. Douglas, a Senior Managing Director,
13 is a distinguished Former Special Agent with the FBI; and Guidepost Solutions excels at cyber
14 investigations and computer forensics.⁶

15 Travis Kula or Epiq Systems, a description of whose work is attached hereto as Exhibit D, is also
16 well qualified and there has been no suggestion of conflict or connection with any party.

17 Concerning Six4Three's request that the forensic examiners run a conflict check concerning any
18 company in which an individual defendant has decision-making authority,⁷ there is nothing unreasonable
19 about this request. If it turns out that the forensic examiner does extensive business with a company that
20 an individual defendant controls, this could create, at the very least, an appearance of bias, if not actual
21

22 ⁵ It is further relevant to note that KPMG has not yet completed its conflict check as to persons other than
23 Facebook.

24 ⁶ Concerning Guidepost Solutions' past relationship with Wilson Elser, Facebook's claim that, as a
25 result, Six4Three cannot object to KPMG based on its relationship with Facebook is a *non sequitur*. If
26 Facebook wants to object to Guidepost Solutions on this basis it can, but apparently it doesn't. However,
27 Guidepost Solutions' past relationship with Wilson Elser has nothing to do with whether Six4Three can
28 object to KPMG based on its relationship with Facebook. It is also a *non sequitur* to argue that because
Six4Three does not object to Guidepost Solutions based on its past limited work with Facebook, it cannot
object to KPMG based on the fact that it seconded personnel to Facebook's legal depart. Six4Three is free
to find the former unobjectionable and latter objectionable, and such a position is perfectly reasonable.

⁷ While Facebook claims not to know what "decision-making authority" means, they made no effort in
the meet and confer to clarify the issue or come up with an alternative.

1 bias, that calls into question the reliability of the work performed by the examiner. At best, this could
2 result in the creation of another sideshow of disputation that delays resolution of the matters that
3 Facebook claims an interest in getting to the bottom of; and, at worst, it could result in the removal and
4 replacement of the forensic examiner and redoing of the work performed by her or him. Thus,
5 Six4Three's request that any such entities be included in the conflict check in no way is aimed at delaying
6 this process; rather, it is aimed at ensuring this process reaches a resolution sometime in the near future.
7 Thus, Six4Three requests that the Court order Facebook to provide whoever is chosen by the court to
8 play the role as the forensic examiner with the necessary information to run this conflict check and that
9 his or her ultimate appointment be conditioned upon the results of that check.

10
11 Dated: March 27, 2019

DURIE TANGRI LLP

12
13 By: _____


LAURA E. MILLER

14 Attorneys for Defendants
15 Facebook, Inc., Mark Zuckerberg, Christopher Cox,
16 Javier Olivan, Samuel Lessin, Michael Vernal, and
Ilya Sukhar

17 Dated: March 27, 2019

GROSS & KLEIN LLP

18 By: _____


STUART G. GROSS

19 Attorneys for Plaintiff Six4Three
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PROOF OF SERVICE

I am employed in San Francisco County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is 217 Leidesdorff Street, San Francisco, CA 94111.

On March 27, 2019, I served the following documents in the manner described below:

JOINT SUBMISSION REGARDING FORENSIC EXAMINER

☒ BY ELECTRONIC SERVICE: By electronically mailing a true and correct copy through Durie Tangri's electronic mail system from cortega@durietangri.com to the email addresses set forth below.

On the following part(ies) in this action:

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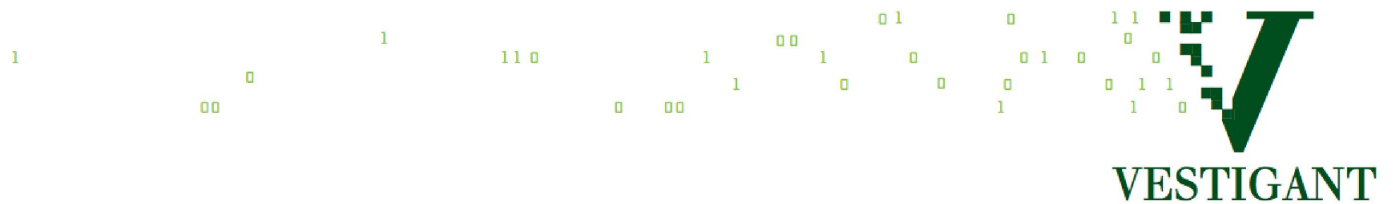
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Attorney for Birnbaum & Godkin, LLP

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed on March 27, 2019, at San Francisco, California.

3 
4 _____
5 Christina Ortega
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EXHIBIT A



Curriculum Vitae

J. Christopher Racich, Vestigant, LLC, President

Name: J. Christopher Racich
Telephone: 202 905-2170
Email: racich@vestigant.com

PROFESSIONAL EXPERIENCE

Sept. 2009 – Present: Vestigant, LLC – President

Create and operate computer forensics/E-Discovery Consulting business

Lead, work and testify in all manner of Computer Forensics/E-Discovery cases

Gather and investigation of data for a variety of civil and criminal matters. Matters include fraud, embezzlement, sexual harassment, intellectual property theft violation of non-compete clauses, child pornography, and computer, network, and PBX/voice mail hacking

Aug. 2010 – Present: American University, Washington College of Law – Adjunct Professor

Teaching “Litigation in the Digital Age: E-discovery and Electronically Stored Information Law”

Sept. 2010 – Present: American University Washington College of Law – Adjunct Professor

Dec. 2008 to Sept. 2009: First Advantage – Senior Regional Practice Leader and Counsel

2006 to 2008: First Advantage – Senior VP and Counsel

2004 to 2006: First Advantage CoreFacts – Managing Director and Counsel

2001 to 2004: CoreFacts – Managing Director and Counsel

Head computer forensics practice

Lead numerous large scale electronic discovery consulting projects and act as lead consulting expert

Lead work and testify in all manner of Computer Forensics/E-Discovery cases

1997 to 2001: Kroll Associates – Director, High Tech Investigation, Mid-Atlantic Region

Develop and lead the firm’s Mid-Atlantic high tech investigation practice from Kroll’s Washington, DC office

Manage numerous investigations and computer forensic engagements for the firm

Testify as a computer forensic expert

TESTIMONY

Mathey Dearman, Inc. v. H&M Pipe Beveling Machine Co., et al,

Case no. 18-cv-250-GKF-JFJ

Testimony given in Hearing, Federal District Court, NDOK, Retained by Mathey Dearman, Inc.

MRP UP Partners, LLC, et al. v. Raymond Rahbar, Jr., et al,

Case No. 2017-00817

Testimony given in Hearing, Fairfax County Circuit Court, Retained by MRP UP Partners, LLC

MRP UP Partners, LLC, et al. v. Raymond Rahbar, Jr., et al,

Case No. 2017-00817

Testimony given in Deposition, Fairfax County Circuit Court, Retained by MRP UP Partners, LLC

Integrated Global Services, Inc. v. Michael Mayo

Case No. 3:17-cv-00563

Testimony given in Hearing, Federal District Court, EDVA, Retained by Integrated Global Services, Inc.

U.S. ex rel. Lyle Beauchamp, et al. v. Academi Training Center, Inc.

Civil Action No. 1:11-cv-371

Testimony given in Deposition, Federal District Court, EDVA, Retained by Academi Training Center, Inc.

Kathryn McGregor Gaietto, et al. v. Jacqueline Lewis, et al.

Case No. 2015 CA 004971B

Testimony given in Deposition, Superior Court of District of Columbia, Retained by Jacqueline Lewis

Netlogic Solutions, Inc. v. Micore Solutions, Inc.

Case No. 94260

Testimony given in Hearing, Loudon County Circuit Court, Retained by Micore Solutions, Inc.

Liebherr Mining & Construction v. Detroit Heavy Truck Engineer, et al.

CL1100114F-15

Testimony given in Hearing, Newport News Circuit Court, Retained by Liebherr Mining & Construction

Ratner Companies, LC v. Bobby Brown and Regis Corporation

Civil Action No. 2015-13150

Testimony given in Deposition, Fairfax County Circuit Court, VA, Retained by Ratner Companies, LC

In the Matter Of: Certain Stainless Steel Products, Certain Process for Manufacturing or Relating to Same and Certain Products Containing Same

Investigation No. 337-TA-933

Testimony given in Deposition, US International Trade Commission, Retained by Valbruna Stainless, Inc.

Lynn M. Johnson v. BAE Systems, Inc., et al.

Civil Action No. 1:11-cv-02172-RLW

Testimony given in Hearing, US District Court for the District of Columbia, Retained by BAE Systems, Inc.

Headfirst Baseball, LLC, et al., v. Robert Elwood and Stacey Elwood

C.A. No. 1:13-cv-00536-RBW

Testimony given in Deposition, US District Court for the District of Columbia, Retained by Headfirst Baseball, LLC

Chevron Corp. and Texaco Petroleum Co. v. The Republic of Ecuador

Track 2 Arbitration under the UNCITRAL Arbitration Rules

Testimony given at UNCITRAL Arbitration, Retained by The Republic of Ecuador

Counsel: Eric Bloom, Winston & Strawn, LLP

Taylor Allegyer vs. Melanie Allegyer

Case No. CL 2014-4514

Testimony given at Hearing, Fairfax County Circuit Court, VA, Retained by Taylor Allegyer.

HMS Holdings Corp., et al., v. Sean Curtin, et al.

Index No. A00754/2014

Testimony given at Evidentiary Hearing, Supreme Court New York, Retained by HMS Holdings, Corp.

James Swan v. BB&T Securities, LLC

FINRA Arbitration No. 13-01078

Testimony given at FINRA Arbitration, Retained by BB&T Securities, LLC

HMS Holdings Corp., et al., v. Public Consulting Group, Inc., et al

Cause No. DC-14-0947

Testimony given in TI Hearing, Dallas County District Court, TX, Retained by HMS Holdings, Corp.

HMS Holdings Corp., et al., v. Public Consulting Group, Inc., et al

Cause No. DC-14-0947

Testimony given in Deposition, Dallas County District Court, TX, Retained by HMS Holdings, Corp.

Taylor Allegyer vs. Melanie Allegyer

Case No. CL 2014-4514

Testimony given at Hearing, Fairfax County Circuit Court, VA, Retained by Taylor Allegyer

American International Biotechnology, LLC v. Breedlove

Case No. 3:14-cv-229

Testimony given at Hearing, Federal District Court EDVA, Retained by American International Biotechnology, LLC

Janae Haaland vs. Christopher Marraro

Case No. CL 2014-289

Testimony given at Deposition, Fairfax County Circuit Court, VA, Retained by Janae Haaland

ManTech International Corp. v. Analex Corp., et al.

Case No. 2011-9058

Testimony given at Trial, Fairfax County Circuit Court, VA, Retained by ManTech International Corp.

US Foods, Inc., v. Michael Noble & Phillip Roszak

AAA Case No. 13 166 01022 13

Testimony given in AAA Hearing, Retained by US Foods, Inc.

Wise Recycling, LLC v. Gary Taylor, et al.

Case No. 12-CVS-2139

Testimony given in Deposition Superior Court of North Carolina, Johnston County, Retained by Wise Recycling, LLC

Tullett Prebon, PLC, et al. v. BGC Partners, Inc.

Civil Action No. HUD-L-3796-11

Testimony given in Deposition, Superior Court of New Jersey, Hudson County, Retained by John DelVecchio and Peter Ozzimo

Random Ventures, Inc., et al. v. Advanced Armament Corp, LLC, et al.

Civil Action 1:12-CV-06792-KBF

Testimony given at Trial, Federal District Court SDNY, Retained by Advanced Armament Corp, LLC

Professional Massage Training Center, Inc. v. Accreditation Alliance of Career Schools and Colleges

Civil Action No. 1:12-CV-00911-LO-IDD

Testimony given at Evidentiary Hearing, Federal District Court EDVA, Retained by Professional Massage Training Center, Inc.

Jennifer J. Taylor v. Republic Services, Inc., et al.

Civil Action No. 1:12-CV-523

Testimony given at Evidentiary Hearing, Federal District Court EDVA, Retained by Republic Services, Inc.

Tech Systems, Inc. v. Lovelen Pyles, et al.

Case No. 1:12-CV-374-GBL-JFA

Testimony given at Trial, Federal District Court EDVA, Retained by Tech Systems, Inc.

Motors Liquidation Company GUC Trust, v. Appaloosa Investment Ltd. Partnership I, et al.

Case No. 09-50026, Case No. 12-09802

Testimony given at Trial, SDNY Bankruptcy Court, Retained by Elliott Management Corporation, Fortress Investment Group LLC and Morgan Stanley & Co. International PLC

Confidential Arbitration

Testimony given in Confidential Arbitration.

Counsel: Christopher Manning, Williams & Connolly, LLP

ManTech International Corp. v. Analex Corp., et al.

Case No. 2011-9058

Testimony given in Deposition, Fairfax County Circuit Court, VA, Retained by ManTech International Corp.

Motors Liquidation Company GUC Trust, v. Appaloosa Investment Ltd. Partnership I, et al.

Case No. 09-50026, Case No. 12-09802

Testimony given in Deposition, SDNY Bankruptcy Court, Retained by Elliott Management Corporation, Fortress Investment Group LLC and Morgan Stanley & Co. International PLC

Tristi Ann Boone v. Dinh Tran Quang Nguyen

Case No. CL00069833-00

Testimony given at Hearing, Loudon County Circuit Court, VA, Retained by Tristi Boone

Aon Risk Services Northeast, Inc. And Aon Corp. v. M. Cusack and Alliant Insurance Services, Inc.

Index No. 651673/2011

Testimony given in Preliminary Injunction Hearing, Supreme Court of the State of New York, Retained by Alliant Insurance Services, Inc.

DynCorp International, LLC v. Jane T. Flowers, et al.

Case No. CL2011-8117

Testimony given in Deposition, Fairfax County Circuit Court, VA, Retained by DynCorp, International, LLC

ManTech International Corp. v. Barry Greenberg, et al.

Case No. 2008-5845

Testimony given in trial, Fairfax County Circuit Court, VA, Retained by ManTech International Corp.

Energy EIAC Capital Ltd and Sanibel Intertrade Corp. v. Maxim Group, LLC

Index No. 650180/2010

Testimony given in hearing, Supreme Court of the State of New York, Retained by Energy EIAC Capital Ltd.

ManTech International Corp. v. Barry Greenberg, et al.

Case No. 2008-5845

Testimony given in Deposition, Fairfax County Circuit Court, VA, Retained by ManTech International Corp.

Lumber Liquidators, Inc. v. Kevin H. Sullivan

Case No. 11 166 00490 10

Testimony given in American Arbitration Association Arbitration, Retained by Lumber Liquidators, Inc.

James River Management Co., Inc., et al v. Michael P. Kehoe, et al.

Civil Action No. 3:09CV387-REP

Testimony given in hearing, Federal District Court EDVA, Retained by James River Management, Inc.

Leor Exploration & Production, LLC et al., v. Guma Aguiar

Case No. 09-60136-CV-PAS; Case No. 09-60683-CV-PAS

Testimony given in Evidentiary Hearing, SDFL, Retained by Guma Aguiar

James River Management Co., Inc., et al v. Michael P. Kehoe, et al.

Civil Action No. 3:09CV387-REP

Testimony given in Deposition, Federal District Court EDVA, Retained by James River Management, Inc.

Applied Materials, inc., v. Advanced Micro-Fabrication Equipment, Inc. China, et. al.

Case No. C07-05248

Testimony given in Deposition, NDCA, San Jose Division, Retained by Applied Materials

John B. Mazur v. TRG Holdings LLC., et al.

Civil Action No. 08 CA 000809

Testimony given in Evidentiary Hearing, Superior Court of the District of Columbia, Retained by John B. Mazur

John B. Mazur v. TRG Holdings LLC., et al.

Civil Action No. 08 CA 000809

Testimony given in Deposition, Superior Court of the DC, Retained by John B. Mazur

Sterling Merchandising, Inc. v. Nestlé, S.A. et al.

Civil No. 06-1015 (SEC)

Testimony given in Deposition, District Court, Puerto Rico. Retained by Nestlé, S.A.

Interbake Foods, LLC v. Bakery, Confectionery, Tobacco Workers and Gran Millers International Union (BCTGM), Local 68

NLRB Case #5CA-33158, 5CA-33300, 5CA-34261

Testimony given in Trial, National Labor Relations Board, Region 5. Retained by Interbake Foods, LLC.

David W. Howard v. Lumber Liquidators, Inc.

JAMS Arbitration Ref. No. 1410004567

Testimony given in JAMS Arbitration. Retained by Lumber Liquidators, Inc.

Bi-State Development Agency of the Missouri-Illinois Metropolitan District v. Cross County Collaborative Joint Venture, et. al.

Case #04CC-003335

Testimony given in Trial, Circuit Court, St. Louis, MO. Retained by: Bi-State Development Agency of the Missouri-Illinois Metropolitan District

Jerry I. Treppel v. Biovail Corporation, Eugene N. Melnyk, Kenneth C. Cancellara, Michael S. Sitrick and Sitrick and Company, Inc.

Case 03 Civ. 3002

Testimony given in 30(b)(6) Deposition, SDNY. Retained by Biovail Corporation

American Civil Liberties Union, et al, v. Alberto Gonzales

Case #98-CV-5591

Testimony given in Deposition, Federal District Court, EDPA. Retained by American Civil Liberties Union

DAG Petroleum Suppliers, LLC v. BP p.l.c. and BP Products North America, Inc.

Case #1:05-CV-1323

Testimony given in Deposition, Federal District Court EDVA. Retained by DAG Petroleum Suppliers, LLC

IECS, LLC v. Abdallah Walid El Kabbani

Case #1:06CV90

Testimony given in Hearing, Federal District Court, EDVA. Retained by IECS, LLC

United States v. Daniel Bayly, et al.

Case #4:04CR00363-1

Testimony given in Trial, Federal District Court, SDTX. Retained by US Government

Hach Company v. Michelle Haubrich

Case #04CV1639

Testimony given in Hearing, Larimer County District Court, CO. Retained by Hach Company

Scott & Stringfellow v. Jefferies Group, Inc

Testimony and Evidence given in Hearings, NASD-DR Arbitration, and in Henrico, VA, Circuit Court. Retained by Scott & Stringfellow

Walton Street v. Ocwen Asset Investment Corp.

Case # 1999L006116

Evidence given in Deposition, Cook, IL, Circuit Court. Retained by Ocwen Asset Investment Corp.

Henry N. Camferdam, Jr. et al. v. Ernst & Young International, Inc., et al.

Case #1:02CV10100

Testimony given in Hearing, Federal District Court, SDNY. Retained by Ernst & Young International, Inc., et al.

DMG Securities v. Bashion, Cruz

Case #03-06845

Testimony given in Hearing, NASD-DR Arbitration. Retained by DMG Securities

CERTIFICATION AND TRAINING

Certified Computer Examiner (CCE)

Member New York Bar Association, 1998 – present

Member Washington, DC Bar, 1999 – present

Member Virginia Bar Association, 2004 – 2009

Member HTCIA

HTCIA Computer Forensic Certification

HTCIA Instructor

Encase Intermediate Certification

National Consortium for Justice Information and Statistics (SEARCH) Computer Forensic Certification

HTCIA/RCFG GMU Computer Forensic Certification

Kroll Computer Forensics Certification

Co-Chair, ABA Sub-committee on Electronic Evidence 1999 – 2004

Private Investigator, Virginia 2002 - 2016

Private Detective, Washington, DC 1997 – 2001

EDUCATION

Washington College of Law, 1997

JD

Cornell University, 1993

Bachelor of Arts, Biology

EXHIBIT B

The Berkeley MBA - Same degree, different schedules. Evening. Weekend. Executive. Full-time. Ad ...

Kenneth Koch • 3rd

Principal at KPMG LLP

Greater Atlanta Area

Message

KPMG LLP

University of Pennsylvania - The Wharton School

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Ken is a Principal in KPMG's Forensic practice. He specializes in misconduct investigations, eDiscovery, computer forensics, and data analytics to support litigation matters and to assist clients during government investigations. Ken is a USAF veteran and he currently serves as chair of KPMG's Veterans Network.

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Special Agent

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Jul 1998 – Sep 2002 · 4 yrs 3 mos




Secure Communications Systems

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Jun 1992 – Jul 1998 · 6 yrs 2 mos


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Education

- 

University of Pennsylvania - The Wharton School

Executive Development Program, Aresty Institute of Executive Education

2015 – 2015
- 

Colorado Christian University

BS, Computer Information Systems

1997 – 1998
- 


University of Maryland European Division

Information Systems Management


1995 – 1996

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That Others May Live Foundation

Mar 2016 – Present • 3 yrs 1 mo

Social Services

That Others May Live Foundation is a "Best in America" 501 (c)3 non-profit charitable organization that provides critical support, scholarships, and immediate tragedy assistance for the families of United States Air Force Rescue Heroes who are killed or severely wounded in operational or training missions.
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May 2015 – Present • 3 yrs 11 mos


Poverty Alleviation

VEO is the true triage for homeless veterans on their journey from the streets to an empowered life.


VEO serves Veterans that have offered their lives to protect the freedom we all enjoy as U.S. Citizens. Upon homecoming, our Veterans have faced tremendous challenges finding affordable housing and sustainable employment to support themselves and their families.

Skills & Endorsements


- Risk Management • 26




Endorsed by Humberto Salicetti and 1 other who is highly skilled at this



Endorsed by 11 of Kenneth's colleagues at KPMG US
- Litigation Support • 91



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Doug Colt

EXHIBIT C

LEADERSHIP, PROTECTION, INSIGHT AND TEAMWORK FOR AN UNCERTAIN WORLD

In a world where change is certain, experience is the best protection. Guidepost Solutions offers global investigations, compliance, monitoring, and security and technology consulting solutions for clients in a wide range of industries. Our expert team provides leadership and strategic guidance to address critical client needs across the globe.

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Guidepost Solutions is a global team of investigators, experienced security and technology consultants, and compliance and monitoring experts. We provide security, investigative, compliance and monitoring leadership for critical client needs.

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With headquarters in New York, Guidepost Solutions maintains offices in key markets including Boston; Chicago; Dallas; Honolulu; London; Los Angeles; Oakland; Palm Beach; Sacramento; San Francisco; Seattle; Singapore; and Washington, D.C., and has resources across the globe.

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STEPHANIE DOUGLAS

SENIOR MANAGING DIRECTOR

As Senior Managing Director in the San Francisco office of Guidepost Solutions, Stephanie Douglas, focuses on sensitive internal investigations, white collar crime investigations, building corporate compliance programs, holistic corporate security programs, and proactively educating executives about crisis management and insider threats. She is sought after for her invaluable insight and judgment and is sensitive to the needs of business. Ms. Douglas works with corporations to identify risks, think through sensible and cost-efficient mitigations, and engage leadership with making long-term and productive corporate changes.

Ms. Douglas has a distinguished career in both private and public sectors. She retired as a Senior Executive from the Federal Bureau of Investigations (FBI) in 2013 and was recruited by Pacific Gas & Electric (PG&E). While at PG&E, she served as Senior Director of Corporate Security where she oversaw security risk mitigation and issue response.

In her 23 years at the FBI, Ms. Douglas served in a variety of influential roles. In her last role with the FBI, she served as Executive Assistant Director of the National Security Branch. There she directed all of the FBI's work related to domestic and international counter-terrorism, counterintelligence, weapons of mass destruction and intelligence matters. In this position, she reported to both the FBI Director and the Director of National Intelligence (DNI). Ms. Douglas represented the FBI in discussions of national security policy along with other U.S. Intelligence Community partners. She also served as the Bureau's Chief Intelligence Officer.

Prior to the above position, Ms. Douglas served as the Special Agent in Charge for the FBI's San Francisco Division for more than three years. In this position, she led all investigative and administrative operations of the division and had extensive interaction with Bay Area corporations. She was responsible for all internal compliance matters as well.

Ms. Douglas's other FBI positions include Special Agent, then Supervisory Special Agent, where she ran special investigations and counter espionage operations, and FBI Inspector, managing high profile and politically sensitive investigations

Ms. Douglas continues to maintain excellent relationships in both the government and private sectors.



CONTACT INFO

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EDUCATION

Bachelor of Arts, History, University of Tennessee

AFFILIATIONS

ASIS International

Overseas Security Alliance Council

RANE-Risk Assistance Network Exchange

EXPERTISE

CORPORATE INVESTIGATIONS

([HTTPS://WWW.GUIDEPOSTSOLUTIONS.COM/INVESTIGATIONS/](https://www.guidepostsolutions.com/investigations/))

EXECUTIVE EDUCATION

NATIONAL SECURITY CONSULTING

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ORGANIZATIONAL & LEADERSHIP REVIEWS

EXHIBIT D

eDiscovery Forensics & Collection

Easily maintain and clarify defensible collections, evidence integrity and chain of custody records with the Epiq global digital forensics team.

Our global team of forensic examiners hold a variety of certifications, including CCE, CHFI, and EnCE, and can perform onsite or remote collections anywhere in the world. All collected data is preserved in a forensically sound manner and is defensible in the future. Having handled hundreds of state and federal litigation cases, we work with proven technologies and have set the standard for a methodical and defensible approach to collecting, preserving, and analyzing data. Our process has been adopted as the industry best practice.

From conception to completion, forensic advantages at every step ▲

Our experienced teams gather important data even if it has been damaged or is difficult to find—information that can be the difference between winning and losing your organization's case and reputation. Epiq ensures the secure preservation of the most sensitive data using repeatable and defensible processes. We know each case or matter has its own unique objectives and goals. At Epiq, we have the knowledge and experience to construct custom processes to fit the specific needs of client projects. Our teams know the common issues faced by clients and will identify and fortify any vulnerable areas in your organization's case.

Forensic services include: ▲

Computer forensic analysis: Whether it's analysis of your organization's data or review of an opponent's data, expert analysis will help you avoid surprises and stay informed.

Computer forensic consulting: We can help you collect and preserve your data, however, our true value is our ability to assist with client evidence and strategy from early investigation through trial.

Data acquisition: Epiq data acquisition experts have extensive experience planning and executing successful preservation and collection of large and complex data sets.

Expert testimony: Our experts are experienced at working closely with the litigation team and in preparing the results of analysis for proper presentation to a judge and/or jury and defending that work at depositions.

Technical deposition consulting: Epiq has extensive experience in assisting with the execution of technical depositions of opposing witnesses and experts. Subtle differences in technical terms, semantics, understanding the relevant technology, and interpreting the results of computer forensic analysis all contribute to effective technical depositions.

Enterprise archive and legacy media: Epiq experts excel at crafting the proper forensic protocols for dealing with even the most difficult data sets across all media and computing devices.

Effective data collection is the first and primary process in building credibility for your organization’s case. ▼

Our teams of collection experts gather, investigate, and map all relevant data for each individual matter. Making use of our expertise early on will structure your legal project to avoid future issues—saving you time and preventing future costs. Obtaining all useful information is crucial, and we won’t miss a thing.

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Jason Paroff

Senior Director & Forensics Practice Lead

New York

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Data Security



With Epiq managing your data, you can rest assured it is secure.

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[NetDiligence Cyber Risk Summit](#)

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